

ULSTER TOWN BOARD MEETING
JULY 23, 2009 AT 7:00 PM

CALLED TO ORDER BY SUPERVISOR WOERNER, CHAIRMAN at 7:05 PM

SALUTE TO THE FLAG

A moment of silence was observed for Edward R. Crosby, who served as a Town Councilman (1974-1982) and passed away on July 12, 2009

ROLL CALL BY CLERK

TOWN COUNCILMAN DAVID BRINK
TOWN COUNCILMAN JOEL B. BRINK
TOWN COUNCILMAN ERIC KITCHEN
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR NICKY B. WOERNER

Public Comment

Mr. Robert Barton had a long discussion about the agenda items with the Town Supervisor. Supervisor Woerner stated that the proposed local laws will be available for review. The cost for Regional Environmental Consultants & Asbestos Abatement, Inc will be around \$2,700 per household and the money used to pay for this will be through a grant. The left over grant money can not be used for the East Kingston Water Tank because the town had received money so the money was used for a home repair project. He then briefed the Town on the fire at the Town Transfer Station that resulted in the destruction of the pavilion valued at 300-400 K thousand dollars.

Hearing for the Boice's Mining Permit

Supervisor Woerner opened the public hearing at 7:21 PM for the Boice's Mining Permit application, parcel lot # 48.10-1-6, located on Sawkill Road, Kingston, NY.

Mr. Edward Sprague, from Bedenbach & Eggers representing the applicant Boice, gave an overview of the permit. The permit has been approved since 2006 with the DEC serving as lead agency. The Town Board approved a special use permit in 2007 and the purpose of the public hearing is to amend the permit to be compliant with the DEC. The changes include the storage of equipment and material and the use of a portable screener. The blasting will be 1 to 2 times a year to loosen shale.

Mr. Robert Barton requested that there be a special call number to handle complaints by residents.

Mrs. Pat Metzger inquired as to the location of the blasting. It was pointed to on a map of the site.

Councilman Secreto moved to close the public hearing at 7:25 PM
2nd by Councilman Joel Brink
All Ayes

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Councilman David Brink moved to approve a negative SEQRA for parcel lot # 48.10-1-6, located on Sawkill Road, Kingston for a revision to a special permit for mining.

2nd by Councilman Secreto

All Ayes

Councilman David Brink moved to approve the following:

**RESOLUTION
TOWN OF ULSTER TOWN BOARD**

**Site Plan Amendment
Leo Boice & Sons, Inc. Mining
Sawkill Road (CR 31)
S-B-L: 48.1-01-06**

WHEREAS, the applicant - Leo Boice & Sons, Inc. - submitted an application for an amendment to an existing Special Permit to comply with a NYSDEC Mining Permit Modification granted on 12-8-08; and

WHEREAS, materials submitted in support of the proposed action include:

- *Narrative Description* prepared by Medenbach & Eggers Civil Engineering and Land Surveying, P.C. dated May 6, 2009;
- *Application for Special Permit Modification* prepared by Medenbach & Eggers Civil Engineering and Land Surveying, P.C. dated May 6, 2009;
- *SEQRA Short EAF* prepared by Edward Sprague, PE dated May 6, 2009;
- *Engineer's Report for Mined Land Use* prepared by Medenbach & Eggers Civil Engineering and Land Surveying, P.C. dated July 14, 2004; and
- *Mining and Final Reclamation Plan* (Showing Proposed Shale Mine) prepared by Medenbach & Eggers Civil Engineering and Land Surveying, P.C. dated May 19, 2009.

WHEREAS, the Planning Board considered of the application materials submitted by the applicant in support of the proposed action, along with the comments of its consultant planner & engineers made via memoranda (which memoranda are incorporated herein by reference); and

WHEREAS, the Planning Board, upon review the entire record including requested *Mining and Final Reclamation Plan* (Showing Proposed Shale Mine) and location of "portable screener" along with their review of the specification sheet for the Cheiftain 400 portable screener, determined that the proposed activities were situated in a manner that will mitigate potential adverse impacts; and

WHEREAS, the Planning Board, upon review of the entire record, recommended that the proposed action be referred to the Town Board for a public hearing on the amendment to the Special Permit application; and

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WHEREAS, the Town Board held the public hearing on July 23, 2009, took public comments and closed the public hearing; and

WHEREAS, the Town Board, upon review of the entire record (including SEQRA Full EAF Parts 1 & 2), found that the proposed amendment to an existing Special Permit to comply with a NYSDEC Mining Permit Modification granted on 12-8-08 will not have an adverse impact on the environment; as Lead Agency made a determination of non-significance and issued a Negative Declaration pursuant to Part 617 of SEQRA.

NOW THEREFORE BE IT RESOLVED that the Town Board has determined that they have complied fully with the procedural requirements of Part 617 of the State Environmental Quality Review Act (SEQRA); and

FURTHER BE IT RESOLVED, the application by Leo Boice & Sons, Inc. for a Special Permit Amendment to comply with a NYSDEC Mining Permit Modification granted on 12-8-08 is granted, subject to the conditions, limitations and restrictions set forth below.

1. Compliance with zoning and building laws, rules and regulations.
2. Compliance with all representations made by the applicant and his engineer.
3. In addition to the notices required to be served under Town of Ulster Code, no less than 48 hours prior to any blast, a written notice thereof ("Pre-Blast Notice") shall be communicated to each owner of property within a one mile radius of the blast site.

2nd by Councilman Secreto
All Ayes

APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

Councilman Eric Kitchen motioned to approve the minutes of June 18, 2009.

2nd by Councilman Joel B. Brink
All Ayes

ABSTRACT OF CLAIMS

Councilman Joel B. Brink motioned to approve the following:

FUND	CLAIM #	AMOUNT
UTILITIES		
GENERAL	701-733	8,573.06
ULSTER WATER	701-710a	7,843.33
HALCYON PK. WATER	701-702	351.92
SPRING LAKE WATER	701-702	117.13
BRIGHT ACRES WATER	701	201.75
GLENERIE WATER	701-702	44.00
EAST KINGSTON WATER	701	40.00
WHITTIER SEWER	701-702	638.84

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ULSTER SEWER	701-705	12,070.31
WASHINGTON AVE. SEWER	701-702	94.50
SPECIAL LIGHT	701-706	3,069.16
ALL OTHERS		
GENERAL	701-7130	76,280.73
HIGHWAY	701-733	37,544.62
WHITTIER SEWER	701-710	761.33
ULSTER SEWER	701-718	28,714.88
WASHINGTON AVE. SEWER	701	1,346.08
ULSTER WATER	701-715	55,038.97
HALCYON PK. WATER	701-704	4,356.35
SPRING LAKE WATER	701-702	13,923.80
BRIGHT ACRES WATER	701-702	1,592.00
CHERRY HILL WATER	701-702	7,052.88
GLENERIE WATER	701-702	5,016.66
EAST KINGSTON WATER	701-702	3,295.76
INSURANCE (ALL FUNDS)	701-720	120,896.14
CAPITAL PROJECTS		
TRUST & AGENCY	701-712	5,490.37
DRAINAGE PROJECTS	701	945.00
TOTAL		\$ 395,299.57

2nd by Councilman Secreto
A Roll Call Vote was taken – All Ayes

Councilman Joel B. Brink moved to approve the following:

BUDGET MODIFICATIONS:

General Fund:

Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp.Reserve -Softball League) electric at Orlando St.	351.08
Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp.Reserve-Softball League)gas, lock & equipment for tractor - Donald Genther, Jr.	55.07
Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp.Reserve-Softball League) install electrical switch and light in shed - Chris Poenicke	75.00
Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp.Reserve-Softball League) May 5 thru June 16 field prep. - Ronald Kelder	425.00

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Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp.Reserve-Junior Football League) Liability & D&O Insurance to Mid-Hudson Conference Football League		1,023.00
Modify Revenue A3089 (St.Aid,Other Gen.Aid) and Appropriation A3120.200 (Equipment) Division of Criminal Justice Service, Surveillance Grant - Police Dept.		9,256.21
Modify Revenue A3897 (St.Aid,Parks & Rec.Grant) and Appropriation A7110.200 (Equipment)Equipment Grant for Post Park		10,000.00
Ulster Sewer:		
Modify Appropriation SS2-8130.200 (Equipment) to be funded through SS2-5990 (Approp.Fund Bal.)purchase a 2009 Ford F-550 truck from VanBortel Ford		52,933.00
Senior Center Cap.Proj.		
Modify Budget		
Revenues	HSC-3897 Parks & Rec. Grant (Equip.) - State	10,000.00
	HSC-5031 Interfund Transfer - General Fund	24,000.00
Appropriations	HSC-8662.202 Equipment	10,000.00
	HSC-8686.401 Administrative Services	24,000.00
Transfer From:		Transfer To:
General Fund:	A3120.101 Overtime Wages	A3120.100 Police Wages 1,555.44
	A3120.101 Overtime Wages	A3120.100 Police Wages 1,761.95
	A3120.101 Overtime Wages	A3120.100 Police Wages 1,687.20
	A3121.400 Drug Enforcement	A3120.100 Police Wages 14,547.24
	A3121.400 Drug Enforcement	A3120.101 Overtime 4,052.48
	A3120.106 Training	A3120.100 Police Wages 7,873.27
	A1220.400 Contractual Expns.	A1990.400 Contingency 11,000.00
	A1620.454 Maintenance	A1620.409 Repairs & Supplies 600.00
	A3620.100 Bldg.Inspector Sal.	A1990.400 Contingency 24,000.00
	A3620.403 Office Supplies	A3620.200 Office Equipment 60.00
	A3620.403 Office Supplies	A3620.404 Office Equipment Maint. 410.00
	A1990.400 Contingency	A9950.900 Transfer-Cap.Project Fund 24,000.00
	A1990.400 Contingency	A1220.403 Office Supplies 300.00
	A1990.400 Contingency	A1345.400 Meetings & Instrs. 600.00

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A1990.400 Contingency	A1621.409 Repairs & Supplies	1000.00
A1990.400 Contingency	A1920.400 Dues	50.00
A1990.400 Contingency	A5132.454 Maintenance	1,000.00
A1990.400 Contingency	A7110.426 Repairs, Constr.	7,000.00
Ulster Water Fund: SW1-8320.409 Repairs & Suppl	SW1-8340.201 Truck	500.00
2 nd by Councilman David Brink		
A Roll Call Vote was taken – All Ayes		

Town of Ulster Transfer Station.

Supervisor Woerner updated the Town Board about the Transfer Station situation and reported that the DEC sent a communication that there is grant money available for expanding the recycling program that could be used to offset building costs. He noted the situation that the land is valuable and the town could move the operation elsewhere. He referred the matter over to Councilmen Secreto and Joel B. Brink to review the options and make recommendations. It was noted that even though there was a fire, the Transfer Station is still operational. The estimated cost to rebuild the Transfer Station pavilion that was burned down is around \$400,000.

Town of Ulster Senior Center.

Supervisor Woerner updated the Town Board on the process. The town is waiting for the bid opening date and will act on the results at the August workshop meeting.

Proposed Local Law 3 of 2009 - Traditional Neighborhood Development Overlay District.

Councilman Secreto motioned to approve the Finding Statement for the traditional Neighborhood Development Overlay District
2nd by Councilman Joel B. Brink
All Ayes

Councilman David Brink moved to approve the following:

A LOCAL LAW TO AMEND THE ZONING LAW OF THE TOWN OF ULSTER TO ESTABLISH A TRADITIONAL NEIGHBORHOOD DEVELOPMENT OVERLAY DISTRICT

WHEREAS, there is located in the Town and the adjacent City of Kingston certain property formerly used for industrial purposes; and

WHEREAS, the Town of Ulster wishes to provide certain options in the re-development of property located on the Hudson River waterfront; and

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WHEREAS, the property is located in an OM zone as defined by the Zoning Law of the Town of Ulster; and

WHEREAS, after review and study by the Town and the City it was determined that the property would be suitable for redevelopment utilizing a traditional neighborhood design; and

WHEREAS, on March 10, 2003 the Kingston Planning Board, with consent by the Town Board, established itself as Lead Agency for environmental review of the proposed project under the New York State Environmental Review Act (SEQRA); and

WHEREAS, the Lead Agency determined that, due to the size and scope of the proposed project, and the multi-phased development program, the environmental review should take the form of a generic environmental impact statement (GEIS) to allow for consideration of potential environmental affects, both on-site and off-site, in sufficient detail to evaluate the significance of possible impacts without the need for premature preparation of detailed plans; and

WHEREAS, a Final Generic Environmental Impact Statement (FGEIS) approved by the City of Kingston Planning Board on December 18, 2008 describes revisions to the originally proposed plan designed to mitigate impacts identified during review of the DGEIS for the project and providing for a total of 1,682 housing units and 78,500 square feet of commercial space based on principles of “Traditional Neighborhood Development” which are intended to create compact urban communities incorporating the features and design characteristics of existing settlements throughout the region.

WHEREAS, the Town Board would like to provide for the option of redeveloping this property utilizing such a design,

NOW THEREFORE, BE IT ENACTED by the Town Board of the Town of Ulster as follows:

Section 1. Section 190-6 of Chapter 190 of the Town of Ulster Code entitled “Establishment of Districts” is hereby amended to add the following new zoning district designation:

TNDOD Traditional Neighborhood Development Overlay District

Section 2. Section 190-7: The Zoning Map of the Town of Ulster is hereby amended to designate the following parcels, 48.016-3-6.1, 48.016-3-6.2, 48.016-3-7, 48.016-3-8, 48.016-3-9 (a portion of), 48.016-3-10, 48.016-3-11, 48.016-3-12 (a portion of), and 48.052-8-6.2, as “TNDOD – Traditional Neighborhood Development Overlay District”.

Section 3. Chapter 190 of the Town of Ulster Code is hereby amended to add the following new section 190-12.1 to Article V Use and Bulk Requirements:

§190-12.1. TNDOD – Traditional Neighborhood Development Overlay District

In the TNDOD, Traditional Neighborhood Development Overlay District, the following regulations will apply.

A. District Intent and General Purpose.

- (1) The Traditional Neighborhood Development Overlay District (TNDOD) is hereby established to encourage and facilitate redevelopment and adaptive reuse of the former "Tilcon Mining" property which extends from the City of Kingston into the Town of Ulster along the Hudson River waterfront to the hamlet of East Kingston. Approximately 163 acres of the 508 acre site are located in the Town of Ulster.
- (2) These properties have been analyzed and considered as part of various waterfront planning efforts conducted by the City including, the City's Local Waterfront Revitalization Program (LWRP)(1992) and the City's Waterfront Development Implementation Plan (2000). In response to contemporaneous development proposals, the City has also conducted more focused planning analyses of these properties. This effort has included application of the policies and principles contained in the waterfront planning studies recited above to various specific development scenarios and the conduct of detailed environmental impact assessment of those development scenarios pursuant to the requirements of the New York State Environmental Quality Review (SEQR) Act.
- (3) The result of these planning efforts is the Town and City's joint desire to create the opportunity for Traditional Neighborhood development at these locations that is consistent with the character and history of the City and the hamlet of East Kingston. Development of traditional neighborhoods along the riverfront will respect its natural resources and provide attractive, diverse, walkable and culturally vibrant communities with strong linkages to the rest of the urban area. The Town finds that proceeding in this manner constitutes good planning and is consistent with the Town's Comprehensive Plan adopted on July 2, 2007, and with the Town's goals and objectives as a Hudson River Greenway community and furthers the public health, safety and welfare of existing and future residents of the Town.
- (4) The TNDOD is intended to provide an option to development under the existing underlying zoning districts. The standards and procedures set forth for the TNDOD in this Section are intended to override and replace standards and procedures set forth elsewhere in this chapter unless such standards and procedures are specifically referenced or incorporated herein.
- (5) This law is not intended to affect such uses as are allowed under the Town of Ulster Zoning law or any other law of the municipality, the State of New York or the United States of America as of the date of its adoption with respect to the

area of a certain easement granted by Kingston Landing Development LLC to Tilcon, Inc. and recorded in the office of the Clerk of Ulster County at Liber 4109 at page 30; nor is this local law to be deemed to be an approval by the Town of any such use as is contemplated by the terms of said easement, it being the intention of the Town in adopting this law, that the rights of the parties to said easement and the rights of the Town with respect to the activities contemplated by said easement be unaffected hereby.

B. Specific Purposes. The TNDOD is intended to serve the following specific purposes:

- (1) Encourage innovative, traditional neighborhood development which consists of compact, mixed-use neighborhoods where residential, commercial and civic buildings are within close proximity to each other and incorporates the principals set forth in Section 190-12.1.G.(6) below.
- (2) Create pedestrian oriented neighborhoods for a diverse population to live, work, learn and play.
- (3) Provide for the reclamation, redevelopment and/or adaptive reuse of former industrial sites.
- (4) Strengthen the Town of Ulster's economic base.
- (5) Facilitate and enhance meaningful public access to the Hudson River waterfront lands.
- (6) Promote the preservation of large natural features such as woodlands and wetlands and creation of public open spaces within individual neighborhoods.
- (7) Preserve and protect significant views to and from development sites.
- (8) Encourage the incorporation of historic and civic elements into neighborhood design and build upon the Town's historical and architectural heritage.
- (9) Encourage the provision and/or upgrade of necessary infrastructure resources relating to sewer, water, drainage and parking to facilitate development and improve the natural environment.
- (10) Provision of housing opportunities for moderate income families and individuals including municipal employees, first time home owners and senior citizens.

- C. **Applicability.** This District applies to that portion of the Town of Ulster's waterfront and adjoining upland areas comprising the former Tilcon Mining property. The precise District boundaries are designated on the official Town of Ulster Zoning Map.

D. **Permitted Uses**

Uses Permitted by Right: A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right, subject to the conditions established.

- (1) Residential housing, which may be owner occupied, operated as a rental property, or a combination of owner-occupied and rental, and, if offered for sale, to be owned in fee simple, condominium, cooperative or other forms of ownership, which housing may include any of the following, or any combination thereof.
 - (a) **Dwellings:** single family, two family and multiple family including Townhouses, studio and residential apartment units.
 - (b) **Combination building:** A building containing a combination of two or more dwelling unit types, which may include, without limitation, single family attached, townhouses, two story apartments, any of which may be arranged beside, above, or under, other types of unit types.
 - (c) **Mixed use building:** a building that combines one or more dwelling unit types permitted herein, including, without limitation, single family attached, townhouses and apartments, in combination with non-residential uses, which may include any or all non-residential use types permitted herein.
- (2) Art galleries, workshops or retail shops associated with arts, crafts or fine arts.
- (3) Live-Work facilities unit.
- (4) Restaurants and drinking establishments.
- (5) Health club; indoor recreation facility; outdoor recreation opportunities both public and private.
- (6) Hotels, conference centers, banquet facilities, bed & breakfast establishments.
- (7) Office, Business Office, Professional Office.
- (8) Personal Service business.
- (9) Theatres, concert halls, cinemas, museums.

- (10) Cultural and educational institutions and facilities and places of religious worship.
- (11) Retail and service uses typically providing goods and services to the immediate neighborhood, including, without limitation, groceries, specialty foods, bakeries, banks, delicatessens, laundromat/drycleaner and personal services.

Special Permit Uses: The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of §190-25 of this chapter:

- (1) Annual membership clubs such as tennis, marinas or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises. Such clubs shall not contain transient or permanent dwelling units.
- (2) Mass transit. Historic and/or alternative modes of transport; structures that facilitate public access; and are set back from the waterfront.
- (3) Flooding and erosion protective structures.
- (4) Structures needed for public educational, recreational activities and boat launches.

Accessory Uses: Accessory Uses shall be limited to the following:

- (1) Home occupations subject to the provisions of §190-14.A.

Subdivisions: Portions of the TNDOD site may be subdivided upon approval by the Planning Board, in accordance with Chapter 161, for the purposes set forth below. Any parcels created by such subdivision shall be subject to compliance with all provisions of this section and the approved Regulating Design Manual:

- (1) Subdivision to create individual lots for single family homes, townhouses, multi-family housing, non-residential uses, parks and/or open space.
- (2) Subdivision to create blocks or sections for future development which may be further subdivided for the purposes set forth in item (1) above.

E. Provisions for Moderate Income Housing

In any TNDOD, at least 10% of all housing units shall be designated as moderate income housing in accord with the definitions and standards contained herein.

(1) Standards

- (a)** All moderate income housing units shall be physically integrated into the design of the development. Each housing unit shall be constructed to the same quality standards as market-rate units. The exterior finishes shall be indistinguishable from all other units. The developer may, however, substitute different fixtures, appliances and interior finishes where such substitutions would not adversely impact the livability or energy efficiency of the unit.
- (b)** Moderate income housing units shall generally be distributed throughout the development in the same proportion as other housing units. The Planning Board may use discretion in reviewing and approving distribution of units in consideration of the market objectives of the Applicant.
- (c)** To be eligible to purchase or rent a moderate income housing unit, the household's aggregate annual income must be between 80% and 120% of the Ulster County median family income for a family of a particular size as determined annually by the United States Department of Housing and Urban Development (HUD).

(2) Housing Plan

Prior to the initial application for approval of a subdivision, site plan or special permit within an approved TNDOD, the applicant shall submit a proposed Housing Plan to the Planning Board that demonstrates how the following objectives will be achieved:

- (a)** Among income-eligible households, preference to purchase or rent moderate income housing units shall be given to the following types of households in an order deemed appropriate by the Planning Board.
 - [1]** Employees of the Town of Ulster, City of Kingston, or Kingston Consolidated School District.
 - [2]** Volunteer members of the Ulster or Kingston Fire Department or First Aid and Rescue Squads.
 - [3]** Elderly (62 or older) or disabled residents of the Town of Ulster and City of Kingston.

- [4] Honorably discharged US veterans who are residents of the Town of Ulster or City of Kingston.
 - [5] All other residents of the Town of Ulster or City of Kingston.
- (b) The Housing Plan shall include procedures and regulations regarding the following:
 - [1] Methods to determine sale and rental prices for moderate income units.
 - [2] Procedures to regulate resale prices of moderate income units.
 - [3] Proposed phasing of moderate income units in relation to phasing of the total development.
 - [4] Use of any other procedures deemed appropriate to comply with the intent of this section.

(3) Approval

- (a) The Housing Plan shall be approved by the Planning Board, which may request recommendation from the City of Kingston Community Development Agency or similar housing agency, prior to approval of any site plan, subdivision or special permit within the TNDOD.
- (b) The Planning Board shall include mention of such Housing Plan in the notice of any required public hearing on the application.
- (c) As part of any approval of the Housing Plan, the Planning Board may require modifications to such Housing Plan to further the intent of this section.

(4) Administration

The Town Board shall designate a qualified agency or individual to administer the moderate income housing program and perform the following duties:

- (a) Accept and review applications.
- (b) Maintain eligibility priority list, annually certify and re-certify applicants;
- (c) Establish lottery procedures for selecting applicants that have equal priority;
- (d) Recommend annual maximum income limits; rental prices; resale values;

- (e) Review certification from owner and lessors of rental units certifying that units are occupied by eligible families;
- (f) Review all deed restrictions for moderate income units;
- (g) Review all lease terms for moderate income units, and
- (h) Promulgate rules and regulations as necessary.

F. Application for Use of the Traditional Neighborhood Development Provisions.

- (1) Any property owner within the TNDOD may apply to the Town Board for use of the Traditional Neighborhood Development overlay provisions as an alternative to the uses and development standards permitted in the underlying districts, in accordance with the standards and procedures set forth herein. Such application shall be referred to the Town Planning Board for review and recommendations prior to action by the Town Board.
- (2) Each application for use of the Traditional Neighborhood Development provisions be accompanied by a preliminary Regulating Design Manual, subject to approval by the Planning Board, which sets forth the requirements for density, bulk, height, parking, architectural, landscaping, and other design standards to be applied in the proposed traditional neighborhood development.

G. Criteria For Approval of a Traditional Neighborhood Development Design Plan.

In determining whether or not to approve use of the Traditional Neighborhood Development provisions, in accord with the procedures set forth in Paragraph G. below, the Town Board shall consider the extent to which, the plan meets the following criteria.

- (1) Conforms to the applicable purposes and objectives of the Towns Zoning Law.
- (2) Conforms to the applicable policies and purposes of the Town's adopted Comprehensive Plan.
- (3) Conforms to the intent and specific purposes of this section.
- (4) Contains a sufficient amount of acreage to allow for the creation of a Traditional Neighborhood Development that incorporates the Traditional Neighborhood Design principles listed below, but in no event less than 25 acres.

- (5) Contains residential and non residential densities that are sufficient to create Traditional Neighborhood Development and neighborhoods while at the same time respecting the natural features and environmental sensitivity of the site, but in no event more than 10 dwelling units per gross acre allocated for residential use or a floor area ratio (FAR) of more than 2.0 for lands allocated for non-residential use.
- (6) Incorporates accepted Traditional Neighborhood Design principles with respect to the roadway system, proposed land uses, the open space system and the scale and style of the building elements. For purposes of this provision, Traditional Neighborhood Design principles shall include:
 - (a) Provision of mixed use neighborhoods that are designed and sized to be walkable.
 - (b) A discernible center within each mixed-use neighborhood to serve as a community gathering place.
 - (c) Shops and stores within close proximity to neighborhoods sufficiently varied to satisfy ordinary household needs.
 - (d) A variety of places to work, including live/work units.
 - (e) A mix of dwelling types such that younger and older persons, single person households and families may be housed according to their needs.
 - (f) Small playgrounds or neighborhood parks within walking distance of all dwellings.
 - (g) Thoroughfares and roadways designed as a network, with emphasis on connecting adjacent thoroughfares wherever possible to provide drivers with options to disperse traffic.
 - (h) Traffic calming design to slow traffic, creating an environment appropriate for pedestrians, bicyclists and automobiles.
 - (i) Building frontages that create interesting, attractive pedestrian friendly streetscapes and confine parking to locations behind buildings to the maximum extent practicable.
 - (j) Preservation of sensitive natural resources and cultural areas as permanent open space.
 - (k) Provision for community uses or civic buildings.
- (7) Incorporates meaningful public access to the Town's waterfront.

- (8) Demonstrates the provision of adequate services and utilities, including access to public transportation.
- (9) Architectural style of proposed buildings, including exterior finishes, color and scale that is consistent with the intent and purposes of this Section.

H. Traditional Neighborhood Development Plan – Review Procedures.

- (1) Traditional Neighborhood Development Design Plan Application. An application for approval of a Traditional Neighborhood Development Plan shall be made as follows:
 - (a) Applicant. An application for approval of a Traditional Neighborhood Development Plan shall be made in writing to the Planning Board. Application shall be made by the owner(s) of the land(s) to be included in the project or by a person or persons having an option or contract or other commitment to purchase or acquire the lands. In the event an application is made by a person or persons holding an option or contract to purchase the lands or other commitment to purchase or acquire the lands, such application shall be accompanied by written evidence that the applicant has authorization to submit and pursue such application.
 - (b) Applications. All applications for approval of a Traditional Neighborhood Development Plan shall be on forms and in such quantity as may be prescribed by the Planning Board. The application must include a Part 1 Full Environmental Assessment Form.
 - (c) Contents. An application for Traditional Neighborhood Development Plan approval shall include the following:
 - [1] A master site development plan for consideration by the Planning Board. The development plan may be prepared at a conceptual level but, at a minimum, must specify the number and type of uses proposed for development and depict their location as well as depict the parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses.
 - [2] The development plan shall be accompanied by a proposed Regulating Design Manual as required under section F above.
 - [3] The development plan need not encompass all the details required for a site plan approval but shall set forth in reasonable detail the anticipated locations within the development and sizes of all major

improvements such that the Planning Board can evaluate the plan for environmental, traffic and other impacts on the Town with a view toward attaching any conditions of approval which must be met at the time a detailed site plan is submitted for approval for the development or any portion thereof.

[4] The TND Plan shall include a phasing plan with estimated time periods for each phase and for completion of the entire development.

- (2) Processing of Application. An application for approval of a Traditional Neighborhood Development Plan shall be processed by the Planning Board in accordance with the following procedure:
- (a) Submission. An application for approval of a Traditional Neighborhood Development Plan shall be submitted to the Planning Board in accord with the timing and procedures set forth below.
 - (b) Escrow. Upon submission of an application, the Planning Board shall require the applicant to establish an escrow amount to be paid by the applicant to reimburse it for reasonable fees incurred by planning, engineering, legal and other consultants in connection with their review of the application. The escrow shall be periodically replenished as necessary. The applicant shall be provided with an ongoing, detailed account of all disbursements from the escrow. Upon termination of the review of the application by the Planning Board, any remaining funds in the escrow account shall be reimbursed to the applicant.
 - (c) Concurrent Site Plan Review. Concurrent with its Traditional Neighborhood Development Plan submission, an applicant may also submit a detailed site plan application for one or more phases of the Traditional Neighborhood Development Plan. Any site plan concurrently submitted must comply with the requirements of this section and of §190-145 of this Chapter.
 - (d) Public Hearing. The Planning Board shall conduct a public hearing on an application for approval of a Traditional Neighborhood Development Plan, which shall be held at the time and place prescribed by the Board. Notice of any public hearing shall be provided in the same manner as provided for Special Permit Uses set forth in §274-b of the New York State Town Law.
 - (e) General Municipal Law 239 Referral. If required, the Planning Board shall refer a full statement of the application to the Ulster County Planning Board as provided for by §239-m of the General Municipal Law.

- (f) Decision. The Planning Board shall approve, approve with conditions or deny an application within 62 days after either:

- [1] a SEQRA determination of non-significance, or
- [2] the issuance of a SEQRA Statement of Findings, or
- [3] a determination that the proposed action is consistent with a previous Statement of Findings.

The Planning Board's decision shall contain specific findings demonstrating the application's compliance with the criteria for approval set forth in Section E above. The Planning Board's decision may attach any reasonable conditions to assure conformance with the intent and objectives of these regulations.

- (g) Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. In the event of denial, the Planning Board's decision shall contain a written reasoned elaboration in support of the decision.

- (h) Modification. Changes or modification to the approved Traditional Neighborhood Development Plan including but not limited to, modifications to the Regulating Design Manual, shall require review and approval by the Planning Board.

- (i) Time Limits.::

- [1] An application for site plan approval of the Traditional Neighborhood Development Plan or, a section thereof, shall be submitted within one year of the Planning Board's grant of Traditional Neighborhood Development Plan approval. Failure to submit an application for site plan approval within that period shall render the Traditional Neighborhood Plan approval null and void and of no force and effect.

- [2] Construction work on the Traditional Neighborhood Development must commence within three (3) years from the date of any final site plan approval and all other required permits or approvals by involved agencies. If construction does not commence within said period, then the Traditional Neighborhood Development Plan approval shall become null and void and all rights shall cease.

- [3] Individual approved sections of the Traditional Neighborhood Development shall be undertaken in the timeframe prescribed by the

Planning Board in its approval resolution. Each section shall be substantially completed in no more than five (5) years.

- [4] Construction of a Traditional Neighborhood Development Plan must be completed within the timeframe proposed by the applicant in its TND Plan and approved or modified by the Planning Board at the time of approval. If the Traditional Neighborhood Development is not completed within said time period, then the approval shall become null and void and all rights therein shall cease.
- [5] For purposes of the above provisions the term “construction work” or “construction” shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan. The term “final site plan approval” shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received “final site plan approval” and indicating the date of such final approval.
- [6] Upon written request by the applicant, any of the time limits prescribed above may be extended by the Planning Board for good cause. Among the examples of good cause are delays occasioned by lawsuits, poor market conditions, unforeseen site conditions and force majeure. The Planning Board shall not withhold such extension unless it finds that the applicant is not proceeding with due diligence or is otherwise violating the conditions upon which the approval was granted. Extensions shall not exceed three years unless the applicant submits a written request for further extension.
- [7] Within the time limits prescribed above, and for any extension period granted by the Planning Board, the Traditional Neighborhood Development plan shall be deemed to have obtained vested rights for purposes of completing the approved development improvements notwithstanding any changes to the Zoning Law.

I. **Conflicts.** To the extent any provision of this Article, including any provision of the approved Regulating Design Manual conflicts with any provision of any other Article in this Chapter, the provisions of this Article shall control.

- (1) The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the law inconsistent with this local law. The provisions of law intended to be superseded include all the Town Law and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the

Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supercession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.

J. Definitions. As used in this section, the following definitions shall apply:

- (1) The term “construction work” or “construction” shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan.
- (2) The term “final site plan approval” shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received “final site plan approval” and indicating the date of such final approval.
- (3) The term “live/work unit” shall mean a two or three story individually deeded unit consisting of commercial or office space on the ground level with a living unit on the above floor or floors which can be owner occupied and/or leased for a permitted use as regulated as a mixed use building.

Section 4. SEVERABILITY

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudicated in any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered, and such invalidity shall not be deemed to affect the remaining portions thereof.

Section 5. . EFFECT OF AMENDMENT

Except as herein modified, Chapter 190 of the Laws of the Town of Ulster, originally adopted as Local Law No. 9 of the year 1991 and any subsequent valid amendments thereto, are hereby ratified and confirmed.

Section 6. EFFECTIVE DATE.

This local Law shall be effective on the date of filing with the Secretary of State

2nd by Councilman Secreto
A Roll Call Vote was taken – All Ayes

ULSTER TOWN BOARD MEETING
JULY 23, 2009 AT 7:00 PM

Proposed Local Law 5 of 2009 - Flood Damage Prevention.

Councilman David Brink motioned to set a public hearing for August 6, 2009 at 7:15 PM for Flood Damage Prevention Local Law
2nd by Councilman Joel B. Brink
All Ayes

Proposed Local Law 6 of 2009 - Town of Ulster Contractor Licensing Law.

Councilman David Brink motioned to set a public hearing for August 6, 2009 at 7:30 PM for a Town of Ulster Contractor Licensing Law
2nd by Councilman Joel B. Brink
All Ayes

Town Planning Board referrals.

Councilman David Brink motioned for the Town Board to declare its intentions as the lead agency for the Millens Recycle Center located on Route 32.
2nd by Councilman Joel B. Brink
A Roll Call Vote was taken – All Ayes

Town Park Rentals and the allowance of alcohol.

Town Attorney Zweben reported that he had a lot of inquiries about the Town purchasing a liquor liability insurance policy that will allow park renters to pay an additional amount to purchase a rider to serve liquor. This will not allow them to sell it. He is waiting to hear back from the town's insurance company.

Declaration of Lead Agency Status Pursuant to SEQRA for the East Kingston Water Tower.

Councilman Secreto motioned to approve the following:
RESOLUTION OF THE TOWN BOARD DECLARING ITSELF LEAD AGENCY WITH
RESPECT TO THE CONSTRUCTION OF THE EAST KINGSTON WATER TOWER

WHEREAS, the Town of Ulster Water Department desires to construct a water tower to provide fire protection service to the East Kingston Water District; and

WHEREAS, the funds for the project are available from the grant from the United States Department of Agriculture for the East Kingston Water District; and

WHEREAS, the project requires that an environmental review be conducted pursuant to Article 8 of the Environmental Conservation Law of the State of New York; and

WHEREAS, a conceptual site plan and subdivision map prepared by Brinnier and Larios was submitted to the Town Board; and

ULSTER TOWN BOARD MEETING
JULY 23, 2009 AT 7:00 PM

WHEREAS, a Full Environmental Assessment Form was prepared by the town; and

WHEREAS, the Town Board of the Town of Ulster declared its intention to be lead agency in this matter on December 18, 2008; and

WHEREAS, notice of the Town's intent to declare itself lead agency was sent to all of the involved agencies and distributed a SEQRA lead agency coordination form on December 23, 2008.; and

WHEREAS, the Town has received no objection to its declaring itself lead agency

NOW THEREFORE, the Town Board of the Town of Ulster declares itself lead agency in the matter of the application for the construction of a water tower for the East Kingston Water District

2nd by Councilman Joel B. Brink
All Ayes

Authorizing the Supervisor to enter into a contract with Regional Environmental Consultants & Asbestos Abatement, Inc., for the East Kingston Home Rehab Project.

Councilman Joel B. Brink moved to authorize the Town Supervisor to enter into a contractual agreement with Regional Environmental Consultants & Asbestos Abatement, Inc., for the East Kingston Home Rehab Project.

2nd by Councilman David Brink
All Ayes

Authorizing and extension of site plan approval to Rusi Holdings.

Councilman David Brink moved to allow a one year extension, to August 21, 2010, for Rusi Holding's site plan located off of 9W/Ulster Avenue

2nd by Councilman Joel B. Brink
All Ayes

Executive Session: Wal-Mart v. Town of Ulster – Tax Certiorari

Councilman Secreto motioned to enter into executive session at 8:18 PM to discuss negotiating a price to sell a piece of property along Dogwood Street to Thomas Davis. Also to negotiated a settlement for a Tax Certiorari with Sam Club/ Wal-Mart

2nd by Councilman Joel B. Brink
All Ayes

The Town Assessor, James Maloney, was invited into the executive session.

Executive session discussion switched from selling land to Mr. Davis to the tax certiorari at 8:55PM

ULSTER TOWN BOARD MEETING
JULY 23, 2009 AT 7:00 PM

Executive session ended at 9:06 PM

Mr. Joe Bundy requested a lower speed limit, like 10 MPH, on Van Kueren Highway due to the residential section that has a lot of people walking along the roads.

Supervisor Woerner requested that the Police Chief, Highway Superintendent and the traffic safety office review the request and report back at the next meeting.

Councilman Secreto motioned to settle the tax certiorari with Sam's Club/ Wal-Mart for 801 Frank Sottile Blvd (SBL #48.8-1-34.220), by reducing their assessment from \$6,650,000 to \$5,750,000 from 2009 to 2012, based on the Town Assessor's recommendations.

2nd by Councilman David Brink

A Roll Call Vote was Taken – All Ayes

There was no action taken pertaining to the selling of lands to Mr. Davis. Councilman Kitchen, Councilman Joel B. Brink, the Town Assessor James Maloney and Town Attorney Zweben will walk the land to become more familiar with it, the easements and to determine a value.

Mr. Robert Barton requested that a limit be placed on the amount of salary when hiring Lisa Cutten as CPA.

Supervisor Woerner motioned to set a limit for Lisa Cutten as CPA at \$20,000.00.

2nd by Councilman Kitchen

2 Ayes – 3 Nays by Councilman David Brink, Councilman Joel B. Brink and Councilman Secreto

Motioned failed.

Mrs. Joann Schoonmaker reported that her neighbors put a fence up on the Town's right-a-way on Orlando St. She requested that fence be removed.

Town Attorney Zweben reported that the fence is on the right-a-way, not the Town Property, and that the town gave notice to the property owner that if the town needed the right-a-way, the town would remove the fence. At this time it would cost the town money to go to court and have the owner of the property remove the fence that does not effect any of the town processes.

Supervisor Woerner requested that the Town Attorney contact the building department and then send the Town Board a letter of recommendation. A noise/nauseates complaint in the area was referred to the Police Chief to review.

Mrs. Dawn Pretsch thanked the Town Highway Superintendent, Frank Petramale, for finishing the work on Lake Road.

Councilman Kitchen motioned to adjourn the meeting at 9:34 PM

2nd by Councilman Joel B. Brink

All Ayes

Respectfully Submitted by

Jason Cosenza, RMC FHCO - Ulster Town Clerk